

DAVIDE GOLIA, SBN 118464
EMAIL: dgolia@mgfilp.com
NOWELL A. LANTZ, SBN 235822
EMAIL: nlantz@mgfilp.com

MARKS, GOLIA & FINCH, LLP

ATTORNEYS AT LAW
8620 SPECTRUM CENTER BOULEVARD - SUITE 900
SAN DIEGO, CALIFORNIA 92123-1489
TELEPHONE: (858) 737-3100
FACSIMILE: (858) 737-3101

Attorneys for Defendant and Counter-Claimant RQ Construction, Inc. and
Defendant Continental Casualty Company

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
for the use and benefit of
JAMES P. MURPHY,
an individual dba
JAMES P. MURPHY
CONSTRUCTION, dba JAMES
MURPHY CONSTRUCTION CO.

Plaintiff,

v.

RQ CONSTRUCTION, INC.,
a California corporation;
CONTINENTAL CASUALTY
COMPANY, a corporation; and
DOES 1 through 10, inclusive,

Defendants.

AND RELATED COUNTER-
CLAIMS

CASE NO: 10-CV0513 W (CAB)

APPLICATION TO AMEND THE
SCHEDULING ORDER

Assigned to:
Hon. Thomas J. Whelan
Hon. Cathy Ann Bencivengo

Complaint Filed: March 10, 2010
Trial Date: Not Set

/////

/////

/////

/////

1 Defendant and Counter-Claimant RQ Construction, Inc. ("RQ") and
2 Defendant Continental Casualty Company, through their counsel, submit the
3 following Application to Amend the Scheduling Order:

4 1) On September 29, 2010, RQ Construction, Inc. ("RQ") served
5 written discovery on JME Construction. JME failed to provide responses by
6 November 22, 2010, as required. As a result, on December 23, 2010, RQ
7 submitted an ex parte application to compel the responses.

8 2) On January 19, 2011, the Court held a hearing on RQ's motion to
9 compel. JME failed to attend. Subsequently, the Court set a new date of
10 February 1, 2011, for JME to provide responses, and a Status Conference for
11 February 9, 2011. On February 9, 2011, nine days after the deadline, JME
12 provided written discovery responses to RQ.

13 3) The significant delay in receiving JME's written discovery has
14 prejudiced RQ's ability to prepare its case within the currently noticed dates.

15 4) At the Status Conference on February 9, 2011, counsel for RQ
16 raised the possibility of extending certain discovery deadlines as a result of the
17 delay in receiving JME's discovery responses. The Court and JME were
18 agreeable.

19 / / / / /

20 / / / / /

21 / / / / /

22 / / / / /

23 / / / / /

24 / / / / /

25 / / / / /

26 / / / / /

27 / / / / /

1 5) Counsel for RQ proposed the revised dates to JME, but received no
2 response. Accordingly, RQ applies to the above captioned Court for the
3 following revisions to the current discovery schedule:

4 a) Deadline to exchange Expert Witness Reports – from
5 February 22, 2011, to March 11, 2011;

6 b) Deadline to serve supplemental/rebuttal Expert Witness
7 Reports for purposes of rebuttal – from March 8, 2011, to
8 March 28, 2011;

9 c) Discovery cutoff – from March 28, 2011, to April 15, 2011.

10 6) All other dates shall stay the same.

11 DATED: February 16, 2011

Respectfully submitted,

MARKS, GOLIA & FINCH, LLP

14 By: s/ Nowell A. Lantz
15 DAVIDE GOLIA

16 NOWELL A. LANTZ
17 Attorneys for Defendant and Counter-
18 Claimant RQ Construction, Inc. and
19 Defendant Continental Casualty
20 Company

Email: nlantz@mgflp.com

27 971.018/3102086.cdc

DAVIDE GOLIA, SBN 118464
EMAIL: dgolia@mgflp.com
NOWELL A. LANTZ, SBN 235822
EMAIL: nlantz@mgflp.com

MARKS, GOLIA & FINCH, LLP

ATTORNEYS AT LAW
8620 SPECTRUM CENTER BOULEVARD - SUITE 900
SAN DIEGO, CALIFORNIA 92123-1489
TELEPHONE: (858) 737-3100
FACSIMILE: (858) 737-3101

Attorneys for Defendant and Counter-Claimant RQ Construction, Inc. and
Defendant Continental Casualty Company

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
for the use and benefit of
JAMES P. MURPHY,
an individual dba
JAMES P. MURPHY
CONSTRUCTION, dba JAMES
MURPHY CONSTRUCTION CO.

Plaintiff,

v.

RQ CONSTRUCTION, INC.,
a California corporation;
CONTINENTAL CASUALTY
COMPANY, a corporation; and
DOES 1 through 10, inclusive,

Defendants.

AND RELATED COUNTER-
CLAIMS

CASE NO: 10-CV0513 W (CAB)

PROOF OF SERVICE BY MAIL

Assigned to:
Hon. Thomas J. Whelan
Hon. Cathy Ann Bencivengo

Complaint Filed: March 10, 2010
Trial Date: Not Set

I, Christy D. Corpuz declare that:

I am over the age of eighteen years and not a party to the action; I am employed in the
County of San Diego, California; where the mailing occurs; and my business address is 8620
Spectrum Center Boulevard, Suite 900, San Diego, California 92123-1489. I further declare

1 that I am readily familiar with the business' practice for collection and processing of
2 correspondence for mailing with the United States Postal Service pursuant to which practice
3 the correspondence will be deposited with the United States Postal Service this same day in the
4 ordinary course of business. I caused to be served the following document(s):

5 APPLICATION TO AMEND THE SCHEDULING ORDER; ORDER ON APPLICATION
6 TO AMEND THE SCHEDULING ORDER, by placing a copy thereof in a separate envelope
7 for each addressee listed as follows:

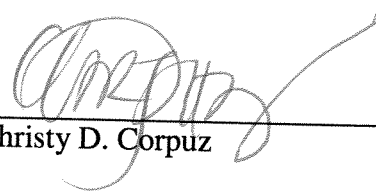
8 Mr. James P. Murphy
9 2690 North State Street
10 San Bernardino, California 92407
11 Telephone: (909) 717-6713
12 Email: jmemechanical@gmail.com

PLAINTIFF and COUNTER-DEFENDANT
JAMES P. MURPHY, dba JAMES P.
MURPHY CONSTRUCTION, dba JAMES
MURPHY CONSTRUCTION CO.

13 I then sealed the envelope(s) and, with the postage thereon fully prepaid, either
14 deposited it/each in the United States Postal Service or placed it/each for collection and
15 mailing on February 16, 2011, at San Diego, California, following ordinary business practices.

16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.

18 Executed on February 16, 2011.

19 
20 Christy D. Corpuz

21
22
23
24
25
26 971.018/POS.cdc
27
28